

REMARKS

Applicants are filing a request for continued examination (RCE) for consideration of the following remarks and reconsideration and withdrawal of the final rejection contained in the Office Action dated December 7, 2007.

The present invention generally relates to use of cationic oxidized polysaccharide compositions in personal care and household compositions and specifically relates to compositions containing cationic conditioning polymers that not only have good conditioning performance with broad surfactant compatibility, but also are economical to formulate in compositions where clarity is not necessarily an issue.

Claim Rejections – 35 USC § 112

In paragraph 9, the Office Action, claims 1-19, 21-45 and 63-75 were rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action states that the amendment made to claim 1; “light transmittance of less than 72% at a wave length of 600 nm” was not supported by the instant specification.

Applicants have amended claim 1, to recite the values for Example 21 contained in Table 9, on page 34 of the application as filed. In particular, Table 9 recites that Example 21, a material of the present invention, as having a light transmittance of less than 84% (rounding the value 83.8% contained in Table 9) at 600 nm for and aqueous solution containing 2% (rounding the value 1.82% contained in Table 9) in an aqueous solution.

Applicants respectfully submit that the above-mentioned amendment corrects and clarifies the issues raised in their previous response. Applicants respectfully submit that claims 2-19, 21-45 and 63-75, which are dependent upon claim 1 are also now in good and proper order and respectfully request allowance of these claims.

In paragraphs 11 and 12, the Office Action rejected claims 1-19, 21-45 and 63-75, as being indefinite as failing to particularly point out and distinctly claim the subject matter of which the applicant regards as the invention. The Office Action states “...that the instant specification does not contain guidelines of how the light transmittance is measured, and thus, this limitation renders the claim indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of claim 1.”

Applicants have amended claim 1, as briefly discussed above in the response to the objection contained in paragraph 9. The presently amended claim 1 recites a personal care or household care composition of the present invention, which when measured containing 2%

by weight of the cationic, oxidized polysaccharide or derivative has a light transmittance of less than 84 % at a wavelength of 600 nm in an aqueous solution. Applicants respectfully submit that a person having ordinary skill in the art would be able to ascertain the metes and bounds of claim 1, since the claim as now presented gives the type of solution which is measured (aqueous) the concentration of the cationic, oxidized polysaccharide or derivative (2% by weight) and the wavelength at which the light transmittance is to be measured (600 nm).

Applicants respectfully submit that the above-mentioned amendment overcomes the rejection of claim 1 as indefinite. Applicants respectfully submit that claims 2-19, 21-45 and 63-75, which are dependent upon amended claim 1 are also now in good and proper order and respectfully request allowance of these claims.

Claim Rejections – 35 USC § 102 and § 103

The Office Action maintained its rejection of claims 1-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a) as obvious over Erazo-Majewicz et al., US 2003/0211952. Additionally, the Office Action maintained its rejection of claims 1-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a) as obvious over Erazo-Majewicz et al., WO 03/095497.

As previously stated in their last response, Applicants wish to note that Erazo-Majewicz et al., US 2003/0211952 and Erazo-Majewicz et al., WO 03/095497 are two members of the same family of cases and therefore the disclosures of these two documents are identical. While wishing to be fully responsive to the rejections presented in the Office Action, Applicants wish to respond to the rejections based on both Erazo-Majewicz et al., US 2003/0211952 and Erazo-Majewicz et al., WO 03/095497 at the same time and will refer to both documents collectively as "Erazo-Majewicz et al."

Erazo-Majewicz et al. discloses a personal care or household care composition comprising a cationic polygalactomannan that has a molecular weight lower limit of 5,000 and an upper limit of 200,000. Erazo-Majewicz et al. additionally discloses the use of these materials in personal and household care products. However, Applicants wish to point out that the cationic polygalactomannans taught in Erazo-Majewicz et al., "...deliver clear formulations across a range of surfactant systems and across a range of polymer concentrations, in personal care and household products." (Column 4, lines 15-18.) (Emphasis added). The compositions of Erazo-Majewicz et al. are taught as being "...particularly useful for applications where clarity of the final product is required, such as

in personal care and household product applications.” (Column 1, lines 13-15.) (Emphasis added).

In contrast, Applicants’ invention is directed towards personal care or household care compositions comprising at least one cationic, oxidized polysaccharide or derivative thereof having a weight average molecular weight of a greater range than the range taught in Erazo-Majewicz et al. The lower end of the range is nearly ten (10) times greater than the lower range recited in Erazo-Majewicz et al., namely 5,000 Mw and the upper range is five (5) times greater than the upper range taught in Erazo-Majewicz et al. However, Applicants wish to point out that rather than the clear formulations of Erazo-Majewicz et al., the compositions of the present invention when measured containing 2% by weight of the cationic, oxidized polysaccharide or derivative have a light transmittance of less than 84 % at a wavelength of 600 nm in an aqueous solution.

Applicants respectfully traverse the rejection of claims 1-19, 21-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a) as obvious over Erazo-Majewicz et al. for the reasons that Erazo-Majewicz et al. teaches clear formulations with a cationic polygalactomannan having a molecular weight having a lower limit of 5,000 and an upper limit of 200,000 while the present inventive cationic, oxidized polysaccharides have broader molecular weights and result in non-clear formulations.

Applicants respectfully submit that the present cationic oxidized polysaccharide containing compositions would not be anticipated by the teachings of Erazo-Majewicz et al. since its teachings are clearly directed to clear formulations with a cationic polygalactomannan having a molecular weight having a lower limit of 5,000 and an upper limit of 200,000. Applicants’ cationic oxidized polysaccharide is of a greater range of molecular weight and are therefore distinguished over the clear materials of Erazo-Majewicz et al. and when these materials are measured containing 2% by weight of the cationic, oxidized polysaccharide or derivative, the materials exhibit a light transmittance of less than 84 % at a wavelength of 600 nm in an aqueous solution.

Applicants also respectfully assert that a person having ordinary skill in the art would not find the present invention obvious in view of the teaching contained in Erazo-Majewicz et al. since the present invention is directed to the production of a cationic oxidized polysaccharide with a light transmittance of less than 84 % at a wavelength of 600 nm in an aqueous solution and Erazo-Majewicz et al. is focused on the production of clear products. The person having ordinary skill in the art would not be motivated to substitute the cationic oxidized polysaccharide with a light transmittance of less than 84 % at a wavelength of 600

nm in an aqueous solution as disclosed in the present application for the clear products taught in Erazo-Majewicz et al.

In view of the above, Applicants respectfully submit that the rejection of claims 1-19, 21-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a) as obvious over Erazo-Majewicz et al. has been traversed, and Applicants respectfully request withdrawal of this rejection and allowance of the claims.

Double Patenting

The Office Action rejected claims 1-45 and 63-75 on the ground of nonstatutory obviousness-type double patenting over the claims 1-56 of US Patent No. 7,067,499.

Applicants respectfully submit, in view of the amendments made to claim 1 in the present response, the grounds for the nonstatutory obviousness-type double patenting rejection over US Patent No. 7,067,499 ("Erazo-Majewicz et al.") has been overcome. As such, the Applicants respectfully request that the nonstatutory obviousness-type double patenting rejection of claims 1-19, 21-45 and 63-75 over US Patent No. 7,067,499 be withdrawn.

The Office Action provisionally rejected claims 1-45 and 63-75 on the ground of nonstatutory obviousness-type double patenting over the claims 1-76 of copending Application No. 11/202,469.

If the Examiner determines that the present application contains patentable subject matter, the Applicants will agree to file in a timely manner a terminal disclaimer in compliance with 37 CFR 1.321 to overcome the provisional rejection of the claims contained in the present application over the claims 1-76 of copending Application No. 11/202,469.

Amendment to Claim

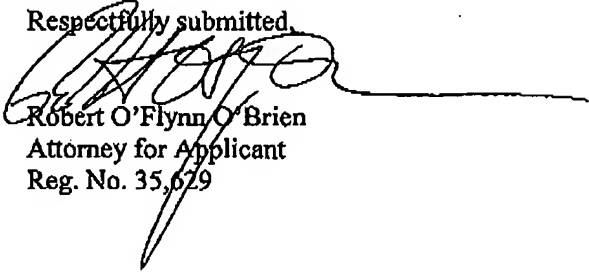
Applicants have amended claim 1, to recite the values for Example 21 contained in Table 9, on page 34 of the application as filed. In particular, Table 9 recites that Example 21, a material of the present invention, as having a light transmittance of less than 84% (rounding the value 83.8% contained in Table 9) at 600 nm for and aqueous solution containing 2% (rounding the value 1.82% contained in Table 9) in an aqueous solution. The support for these amendments can be found on page 34, table 9 of the specification, as filed.

CONCLUSION

In view of the reasons set forth above, Applicants respectfully request withdrawal of the above-mentioned rejections of record, and the allowance of all pending claims, and the holding of this application in condition for allowance. If any points remain of issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the below-listed telephone number.

Except as otherwise stated in the above-noted remarks, Applicants notes that each of the amendments have been made to place the claims in better form for U.S. practice, not to distinguish the claims from prior art references, otherwise narrow the scope of the previously pending claims or comply with the other statutory requirements.

Respectfully submitted,


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